

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

D.T.E. NO. 01-31 – Phase II (Track A)

REQUEST: Department of Telecommunications and Energy Requests to AT&T Communications of New England, Inc.

DATE: September 19, 2002

DTE-ATT 2-2: If the answer to the previous question is “yes,” please provide a list of those business services that AT&T maintains still would not be contestable.

Respondent: Eileen Halloran and Deborah Waldbaum

RESPONSE: Verizon Retail Services That Are Not Contestable Are The Verizon Services That Compete With The AT&T Services That Are Carried On A DS1 Or Above Circuit.

For all the reasons described in response to DTE-ATT 1-1, AT&T cannot use UNEs to contest Verizon retail services provided to end-users on DS1 and above circuits. As explained in the DTE-ATT 1-1 response, we must use special access circuits instead. For all the reasons described in response to DTE-ATT 2-1, AT&T in the majority of cases cannot use intrastate access circuits when providing intrastate and interstate retail services that compete with Verizon’s intrastate and interstate retail services. Thus, AT&T is unable to contest any Verizon retail service that it provides to business customers on a DS1 level or above circuit, because AT&T is incurring substantially higher costs for the connectivity to the customer premises (via inflated interstate access charges) than Verizon is.

As we explained in the DTE-ATT 1-1 response, the Verizon retail services that are not contestable are the Verizon services that compete with the AT&T services that are carried on a DS1 or above circuit. Thus, the Verizon services that are not contestable are those similar to the AT&T services identified on the attachment to the DTE-ATT 1-1 response as services carried on a DS1 or above circuit. *See also*, DTE-ATT 1-1 Response, pp. 4-5.

According to Verizon's response to ATT-VZ 1-6, Verizon can – as a technical matter – provide all of the business services listed in Tab C of its June 5, 2002 compliance filing on a DS1 or above circuit. All such services, therefore, are available to the same business customers that AT&T must use a high priced interstate special access circuit to reach. Thus, all the Tab C services are not contestable unless Verizon can demonstrate otherwise. AT&T asked a number of discovery questions of Verizon to give Verizon the opportunity to narrow the list of potentially non-contestable services. *See*, AT&T's First Set Of Information Requests To Verizon in Phase II. Verizon declined to provide any information that could assist the Department in identifying retail services that, although capable of being offered on a DS1, are offered only on a VG/DS0 circuit or POTS and thus could potentially be contestable if the conditions discussed below are maintained.

Retail Business Services Provided On DS0 Circuits Are Potentially Contestable Using UNEs, But Only So Long As The Department Maintains The Necessary Conditions.

We would like to make clear that services offered only on a VG/DS0 circuit or POTS are contestable *if* the Department maintains the availability of UNE-P and other preconditions. In our response to DTE-ATT 1-1, we stated that “[s]ubject to the limitations and uncertainties described above, business services provisioned on POTS/VG/DS0 facilities (such as services similar to AT&T's AIO service) are potentially contestable using UNEs.” We then stated:

As we have explained, the availability of UNE-P is a necessary predicate for the contestability of Verizon's small business services (services provisioned on POTS/VG/DS0 level facilities). If the Department were to grant in this docket Verizon pricing flexibility for POTS/VG/DS0 level services to business on the ground that they are contestable using UNEs, then the Department must ensure that this condition precedent be maintained as well. In other words, the Department must order that Verizon continue to provide unbundled switching, unbundled loops, and UNE-P as an ongoing condition of continued price flexibility. Since Verizon is seeking price flexibility on the ground that its retail business services are contestable using UNEs, if the Department grants that flexibility it must also order that Verizon eliminate the restrictions on UNE availability and use described in this response, and that Verizon continue to make the requisite UNEs available at TELRIC prices.

Finally, in footnote 7 in the response to DTE-ATT 1-1, we explained that

even Verizon services that compete with AIO [which AT&T offers on a DS0 circuit] may not be contestable using UNEs, because of the absence of a cost effective and efficient mass migration process to convert UNE-P customers to UNE-L. Even with such a process in place, Verizon services that compete with AIO will be contestable with UNEs only to the extent that the Department remains steadfast in requiring Verizon to provide UNE-P at TELRIC prices without line limitations.

Summary.

In summary, AT&T and CLECs in general are not able to contest Verizon business services carried on a DS1 circuit or higher (all Verizon business services), because they cannot obtain connectivity to the customer on the same terms and conditions as Verizon. AT&T and CLECs in general can contest retail services that Verizon offers only on VG/DS0/POTS circuits, but only if the Department maintains the necessary conditions (switching and UNE-P) discussed above. Moreover, true *facilities-based* contestability can occur only if the Department also implements cost effective mass migrations from UNE-P to UNE-L.